

#### **E. Private Dwelling**

1. Household goods—see exemption in CPLR 5205.
2. Power to enter under execution. Keep in mind that an execution is issued by an attorney or clerk; not a judge. Therefore, you do not have the authority of a search warrant.
3. What to levy on: a good general rule is to levy on property in a private dwelling only if it is voluntarily turned over to you. This eliminates all the questions relating to trespass and use of force.

#### **F. Commercial Establishments**

1. Entry—you may enter a commercial property voluntarily or otherwise to seize property. However, it is strongly recommended that before you break into a premises you consider the following:
  - a. what evidence do you have that the property you are looking for is there. If you break in and find no property, you may be subject to liability for damages.
  - b. do you have sufficient advance or expenses from creditor to cover anticipated cost of locksmith and/or repairs to premises (CPLR 8013).
  - c. has the creditor or his attorney directed you to levy on specific property in writing. If he has, you are relieved from damages sustained by reason of the levy. No decision to break into premises should be made without first consulting with your counsel or attorney. (See form for Notice of Levy).
2. Closing a commercial establishment.
  - a. Lockout. You have no right to "lock-out" debtor from his place of business unless he consents.
  - b. Lockout custodians and/or removal. Often, because of expenses, it is beneficial to all parties to consent to a lock-out. The creditor benefits because there is less cash outlay for advance expenses and the debtor benefits because reduced expenses means more proceeds applied toward satisfaction of judgment (see form to be executed by creditor or his attorney).
  - c. Risks. If a lock-out is agreed to, there remains a risk that some of the levied items might disappear. Again, shift the burden for this to the creditor by having him or his attorney sign the form mentioned above.

#### **G. Personal Property in Hands of Third Party and Joint Interests in Personal Property.**

1. Generally, property in the hands of third parties can be levied upon.
2. Pledged and leased property. Property in the hands of a pledgee or lessee is subject to a "levy by service". You can not take pledged or leased property from the possessor (CPLR 5232(b); Viz: a pawned item in the hands of a broker).
3. Assigned property. If debtor assigned property for the benefit of creditor prior to delivery of execution to your office, it is exempt. All other such assignments are leviable by you. Thus, the date of assignment is the important factor.
4. Security interest (UCC).
  - a. property must be within debtor's possession or control to make effectual levy (not a third party).
  - b. there is no difference whether debtor is in default or not.
  - c. you can only levy the debtor's interest in the secured property. Any interest of the secured party is exempt from levy.
  - d. any time you levy on secured property, you should notify the secured party (mortgagee, vendor, etc.).
5. Safe Deposit Boxes
  - a. serve the bank or safe deposit box company with a notice of levy describing the property.
  - b. seal the box from further opening with legal seal or self-destructing tape, etc.
  - c. creditor must now apply for an order to break open the box and permit you to seize the contents.
  - d. creditor must pay cost involved.
6. Safes and Lockers, etc.
  - a. you should first attempt to locate the owner and have him voluntarily open the container.
  - b. if you cannot locate the owner of the container or if he refuses to cooperate, you can follow the procedure outlined for considering a forced entry into a commercial establishment, above.

### 7. Fraudulent Transfer of Property (Debtor & Creditor Law, 278).

- a. if the debtor has fraudulently transferred personal property, such as a car, to a third party, you can levy on the property with the third party.
- b. you should only do this where you have positive evidence that such a fraudulent transfer took place.
- c. levies of this nature should not be executed without first discussing them with your county attorney or Sheriff's counsel.
- d. example: an execution has been delivered to you by creditor's attorney with direction to seize debtor's car. Prior to your levy, debtor transferred title of the car to his mother who is not a co-defendant in the execution. Depending upon the exact time the transfer occurred, you might be able to seize the car from debtor's mother, but this should only be done after careful review with your counsel on the dates and evidence of ownership.

### 8. Property on Person. You may not seize property from the person of a judgment debtor or a garnishee or any other person, even if it was put there to prevent you from levy. Thus, you may not remove an item or jewelry from the body of a person but this does not preclude him from voluntarily delivering the item to you.

#### H. Identity of Ownership

If you have an execution against the property of a natural person, but evidence that the property is actually owned by a corporation, etc. or vice-versa, no "levy by seizure" should be made. However, if levy by service is permissible (depending on the type of property involved), this may be employed, especially because damages are not likely to occur with this type of levy. The usual example of this type of situation occurs when you have an execution against "John Doe", but when you proceed to the address supplied by the creditor for levy, you find a sign on the building that says, "John Doe Incorporated".

#### I. Property Owned by Partnership

1. Debts of Partner. Not subject to levy under execution.

2. Debtor's interest in partnership is subject to levy under execution.

Note: Any partner other than the judgment debtor is a proper garnishee (CPLR 5201(c)(3); see also Partnership Law, 54) as to the partnership property.

## VIII MAKING AND RECORDING THE LEVY

### A. What Kind of Property Involved

1. Intangible—levy by service.
2. Tangible—seizure.

### B. Discussion with Creditor or Attorney

1. Do you have a sufficient description of the property to identify it (include in Notice of Levy).
2. Will storage be necessary. Get advance on anticipated expenses.
3. Will locksmith be necessary. Get advance on anticipated expenses.
4. Will custodians be necessary to guard property. Get advance on expense.
5. Hold harmless agreement. If creditor wants levied property left with debtor or does not wish to pay the expense of storage and/or custodian, have him execute a hold harmless agreement prior to levy. He may change his mind after the levy.
6. Service of execution. Do you have sufficient information to locate and serve a proper person in order to complete your levy. Remember that a levy is not complete unless both a service and a seizure occur.
7. Value of levied property. Can the creditor or other person provide you with an estimate of the value of the property to be levied so that you do not take more property than necessary to satisfy the execution.
8. Fairness. If creditor or his attorney insist that you take an action you think is unfair or illegal, you should consult with your county attorney or counsel prior to taking action. You should avoid situations that are clearly vindictive wherever possible.

### C. Unique Personal Property

#### 1. Alcoholic Beverages

- a. you can only sell sealed bottles.
- b. you must obtain a temporary permit from the State Liquor Authority.
- c. there is a fee for the permit and you should include this fee in your advance on expenses.
- d. a liquor license itself cannot be levied upon nor sold pursuant to a property execution.

**2. Firearms**

- a. you must comply with Federal ATF rules and regulations.
  - 1) you can not sell a weapon or firearm that by definition is illegal to possess (e.g., a machine gun).
  - 2) you must prepare an over the counter sales certificate for each firearm sold (you obtain these from ATF).
  - 3) all such certificates must be filed by you with ATF after sale.
- b. you must comply with N.Y.S. Penal Law.
  - 1) you can only sell to a person licensed or otherwise permitted by law to possess (see Penal Law 265.05 and 265.20)
  - 2) any other disposition must be made in accordance with Penal Law 400.05 or other appropriate section of Penal Law.

3. Contraband, Narcotics, etc. cannot be sold at public auction. Contact the appropriate Federal or State agency for advice on disposition and handling. A court order will be required before a private sale can be conducted for the benefit of licensed or authorized users of such levied contraband.

**4. Perishable Property**

- a. act immediately.
- b. court order required for immediate sale or disposition (CPLR 523(c)).
- c. if you know in advance that you will be dealing with perishable property, it would be wise to discuss this with creditor's attorney prior to levy so that he can take the necessary steps to obtain an order for "quick sale" and thus avoid a risky delay.

**D. Advertising Prior to Sale**

- 1. Prepare a Notice of Sale (see form). The notice should not only state the time and place of sale (CPLR 523(b)), but also that it is an execution sale and the property to be sold.
- 2. Attach your inventory to the notice.
- 3. Post in three public places in the town or city in which the sale is to be held, at least six days prior to the date fixed for sale (New York City exception, see 523(b)).
- 4. You would be well advised to notify anyone else who may have an interest in the sale by mailing or delivering to them a copy of the notice of sale. You are not required to do this but you will probably increase the number of bidders who attend your sale and possibly get a better price.
- 5. Terms of Sale. If there are any special bidding requirements such as evidence the bidder is authorized to possess the property sold, the terms should be included in the notice.

**E. Lotting**

- 1. Should only be considered in very large levies such as warehouses.
- 2. Lotting can become expensive in terms of time required, so don't forget to anticipate salary expenses in your advance on expenses.

**F. Delay**

Avoid unnecessary delay in scheduling a sale as this will only serve to increase risks and increase storage and related costs.

**IX CONDUCTING SALE OF PERSONAL PROPERTY****A. Location of Property & Security**

- 1. Property to be sold must be within view of and under control of the deputy conducting the sale, and particularly within the view of those attending the sale (CPLR 523(a)). If it is physically impossible to have the property within view, it will be sufficient if the Sheriff provides prospective bidders an opportunity to inspect the property at its situs. In such a case, the Sheriff should receive a court order under CPLR 5240 authorizing this method of sale to avoid liability. This type of sale may also be useful if the property is in the hands of a pledgee or lessee, or if the property (e.g., stocks, intangibles) need not be examined by the purchasers.
- 2. You should have as many deputies as necessary on hand to prevent pilferage. No less than two deputies should be present at a sale.

**B. Non-Saleable Personal Property**

- 1. Intangibles. The property must be within view and under your control.
- 2. U.S. Currency. This means you can not sell coin collections at auction. Only the face value may be applied to the satisfaction of the judgment.
- 3. The Sheriff may apply for court instructions regarding any property which he believes can not be sold legally. Notice must be given to the property owner of the application. The court may then determine whether the property should be sold, and can order the appropriate disposition of the property.

**C. Announcements.**

1. Sale is for cash only.
2. You are selling all right, title and interest of the judgment debtor only.
3. All sales are subject to approval of the Sheriff. Therefore, no sale is final until the successful bidder receives a certificate of sale signed by the Sheriff or Undersheriff.
4. Any upset price that has been fixed must be announced prior to taking bids.
5. Unreasonably low bids or an insufficient number of bidders may allow you to cancel or postpone a sale or withdraw items. If you are going to exercise this right, announce that you will and be certain that you have facts sufficient to justify your action. Remember that Sheriffs' sales are sacrifice situations and therefore not likely to generate high prices. The exception to this rule happens when the property to be sold is in short supply.  
Note: If a sale is postponed, the notice requirements must again be complied with.
6. No warranty is made.
7. Sales are not completed until the purchaser completes payment. Thus, if the purchaser receives the Sheriff's consent to delay payment until a certain time, the purchaser's rights may be cut off by the debtor tendering to the Sheriff the amount due on the judgment.

**D. The Sale**

1. Keep a detailed record of all bids received.
2. The most important factor to be considered in the exercise of discretion by the Sheriff at an execution sale is what will bring the highest price. Within this general guideline, the Sheriff has considerable discretion.
3. The best method of sale is to sell the property in bulk first and by lot secondly. If you do it by the reverse method, you will likely induce bulk bidders to make an offer only slightly above the combination of lot bids.
4. Mortgaged property should be sold in lots or combinations that will wholly encompass the mortgage right. That is not to say you should search records to determine mortgage rights, etc. This is a matter for the creditor's attorney to handle. A mortgage and the amount outstanding may be announced at the time of sale but be certain that you also announce that you do not represent or warrant to amount or validity.
5. The time of the sale is within the Sheriff's discretion, and the important factor for consideration here is securing the highest possible purchase price.
6. The Sheriff, his deputies and Undersheriff are not allowed to purchase property at an execution sale (CPLR 5233(a)). However, only the Sheriff (and his deputies, etc.) who conducts the sale is disqualified—other Sheriffs or their deputies may purchase at an execution sale.

**E. Taxes**

1. Sales taxes must be paid by non-exempt purchasers. Only an exemption certificate will suffice.
2. Excise and luxury taxes on items such as jewelry, cosmetics and furs do not have to be paid by rule of I.R.S.
3. At retail, taxes on gas, alcohol, tobacco, etc. are already paid. So no further action is required.
4. Less than retail. When a levy occurs at the wholesale or other levels, you may be confronted with a variety of tax problems. Contact appropriate Federal or State agency and invite them to attend the sale. Usually in cases of this type, you can only sell to licensed dealers.

**F. Certificate of Sale**

1. This form should be prepared in duplicate.
2. It should be signed by the Sheriff or Undersheriff
3. Form (See form).

**X DISTRIBUTION OF PROCEEDS & PRIORITIES ON PERSONAL PROPERTY (CPLR 5234)**

- A. Fees, Expenses and Taxes should be deducted.
- B. Judgment Creditor Should Get Balance.
- C. Judgment Debtor Should Get Any Excess.
- D. Where two or more executions or attachments against the same judgment debtor are delivered to different enforcement officers (e.g., one to Sheriff, one to City Marshall) and personal

property in the jurisdiction of all the officers is levied upon, the proceeds go to the execution or attachment first levied, and then to the remaining creditors who, before the proceeds are distributed, make a demand upon the levying enforcement officer, in the order of their demands (CPLR 5234).

NOTES

## **XI STAYS, APPEALS, BANKRUPTCY**

### **A. Stays**

Stays can occur at most any time during the enforcement cycle. A stay is usually a temporary condition that prevents you from going any further, but does not usually require you to release property or levies.

### **B. Appeals**

1. Service of an appeal usually only has the effect of a stay under CPLR 5519.
2. You should not release property or levy on appeal without an order under CPLR 5204. Such an order usually provides for payment of fees, expenses and poundage.
3. Consult your legal advisor.

### **C. Bankruptcy**

1. Prior to levy—do not proceed
2. After levy—depending upon time of levy coupled with time of filing of petition in bankruptcy, you may be required by the bankruptcy court to turn over levied property to them.
3. Sale—postpone and notify the bankruptcy court.
4. In any event you should bring bankruptcy petition to the attention of creditor's attorney and your legal advisor.

## **XII RETURN ON PROPERTY EXECUTION**

### **A. Defined:**

A return is the act of the Sheriff in redelivering the execution with an account of his success or failure in fulfilling its directions (CPLR 5230(c)).

### **B. Types:**

See notes on income executions.

### **C. Reasons (Supplemental):**

1. "Execution Vacated"—by court order (not stayed).
2. "No Known Assets"—you have 60 days in which to locate assets (life of execution).
3. "Judgment Debtor Bankrupt"—(again, by court order).
4. "Moved—Unable to Locate".
5. "Withdrawn".

AMOUNT #

\$ 10.00

FILE #

PS 2470

1-27-87

1-30-87

2-1-87

2-2-87

2-3-87

TO NEGOTIATION OFFICE  
2-6-87

771-8580 HOME

SERVED

BRENDA CRITCHLOW

Program Director

(First, middle and last name of person)

Street Address

164 COURT STREET

City, Town or Village

BINGHAMTON N.Y.

Date and Time Served

1530 2-3-87

Name of Deputy Who Effectuated Service

Michael Taylor

FRED JOHNSON - PICS

Male / Female

Color of Skin

BK

Hair Color

BK

Approx. Age

35

Approx. Weight

100

Approx. Height

5

NMS

Program Director

Michael Taylor GEN MGR.

SUPREME COURT  
COUNTY OF BROOME

Index No. 88-1470

NORTHEAST BROADCAST LAB, INC.  
against

Plaintiff

UHURU COMMUNICATIONS, INC.

Defendant

EXECUTION

The People of the State of New York

TO THE SHERIFF OF ANY COUNTY, GREETING:

WHEREAS, in an action in the Supreme court of New York  
county of Broome between

Northeast Broadcast Lab, Inc.

as plaintiff and

Uhuru Communications, Inc.

as defendant

who are all the parties named in said action, a judgment was entered on August 19, 1987  
in favor of Northeast Broadcast Lab, Inc. judgment creditor  
and against Uhuru Communications, Inc. judgment debtor

whose last known address is 164 Court Street, Binghamton, NY 13901  
in the amount of \$ 8,218.74-----including costs, of which \$ 8,218.74-----together  
with interest thereon from August 19, 1987 remains due and unpaid;

WHEREAS, a transcript of the judgment was filed on -----19-----with  
the Clerk of the County of -----, in which county the judgment was entered; and

WHEREAS, a transcript of the judgment was docketed in the office of the Clerk of your county on  
----- 19 -----

NOW, THEREFORE, WE COMMAND YOU to satisfy the said judgment out of the real and personal  
property of the above named judgment debtor and the debts due to him; and that only the property in which  
said judgment debtor, who is not deceased, has an interest or the debts owed to him shall be levied upon or sold  
hereunder; AND TO RETURN this execution to the clerk of the above captioned court within sixty days after  
issuance unless service of this execution is made within that time or within extensions of that time made in  
writing by the attorney(s) for the judgment creditor .

Dated: SPECIFICALLY LEVY ON THE  
FOLLOWING ITEMS:

1. Audio mixer console 8 channel LPB, 24  
balanced inputs, w/mono and stereo out-  
puts, and 4 microphone channels (preamps),  
Model S13C w/2 PMP.
2. FM Frequency & modulation monitor, Model  
FMM-2 tuned to 91.5 MHZ. .
3. FM Stereo monitor, Model FMS-2.
4. RF Amplifier tuned to 91.5 MHZ, Model  
RFA-1.
5. (See attached)

  
The name signed must be printed beneath.  
Richard E. Fahrenz

Attorney(s) for Judgment Creditor  
Office and Post Office Address  
WAITE, BERRY & REITER  
208 Press Building

Binghamton, NY 13901  
(607) 724-3282  
BROOME COUNTY SHERIFF  
50 COLLIER ST.  
BINGHAMTON, N. Y. 13901

INTEREST 8% ANNUALLY COMPUTED  
FROM JUDGMENT DATE DAILY UNTIL  
PAID IN FULL. ALSO 5% POUNDAGE  
OF AMOUNT COLLECTED.

Total Due 9816.58

2470

EXECUTION  
ATTACHMENT

(con't)

SPECIFICALLY LEVY ON THE  
FOLLOWING ITEMS:

5. 10 Element Yagi antenna tuned to 91.5 MHZ, Model MJ10.
6. EBS FM Receiver, decoder & encoder system; Gorman Redlich, EBS System.
7. Remote Control System, operating on a dialup line telephone system. Equipment shall meet current FCC specifications for transmitter by remote control, Model VRC1000.
8. Two bay low power circularly polarized antenna w/radomes tuned to 91.5 MHZ w/ all hardware & brackets; Model Celwave (Phelps Dodge) CP1000-2 w/2 radomes.



- ② KURT STL- ) STL TRANSMITTER
- ③ KOA FM IT
- ④ KQA KPX IT
- ⑤ KAAP/GTN 88F FM MON.
- ⑥ CORNELL ROLINA 1876. EBS
- ⑦ KATIN AICPH/AL TBM -2500

089 JAN 29 PM 10 38  
 AIRMAIL 0-2070  
 AIRMAIL 0-2070

SUPREME COURT  
COUNTY OF BROOME : STATE OF NEW YORK

NORTHEAST BROADCAST LAB, INC.

Plaintiff(s)

against  
UHURU COMMUNICATIONS, INC.

Defendant(s)

Index No. 88-1470

AFFIDAVIT OF  
SERVICE OF EXECUTION

STATE OF NEW YORK, COUNTY OF BROOME

ss.:

Adolph E. Chakanovsky being duly sworn, deposes and says: that deponent is not a party to this action, is over 18 years of age and resides at Binghamton, N.Y.

That on FEBRUARY 3, 1989 at 3:30 P.M. at 52 COLLIER ST. 164 COURT STREET, BINGHAMTON, N.Y. deponent served the within EXECUTION on UHURU COMMUNICATIONS, INC. defendant therein named.

- INDIVIDUAL by delivering a true copy of each to said defendant personally; deponent knew the person so served to be the person described as said defendant therein.
1. ☐
- CORPORATION a corporation, by delivering thereto a true copy of each to BRENDA CRITCHLOW personally, deponent knew said corporation so served to be the corporation described in said summons as said defendant and knew said individual to be PROGRAM DIRECTOR thereof.
2. ☒
- SUITABLE AGE PERSON by delivering thereto a true copy of each to a person of suitable age and discretion. Said premises is defendant's actual place of business—dwelling house—usual place of abode—within the state.
3. ☐
- AFFIXING TO DOOR, ETC. by affixing a true copy of each to the door of said premises, which is defendant's actual place of business—dwelling house—usual place of abode—within the state. Deponent was unable, with due diligence to find defendant or a person of suitable age and discretion, thereto, having called there.
4. ☐

MAILING USE WITH 3 or 4 ☐

Deponent also enclosed a copy of same in a postpaid sealed wrapper properly addressed to defendant at defendant's last known residence, at and deposited said wrapper in a post office—official depository under exclusive care and custody of the United States Postal Service within New York State.

DESCRIPTION USE WITH 1, 2, or 3 ☒

Deponent describes the individual served as follows:

- |  |  |  |                                     |  |   |  |
|--|--|--|-------------------------------------|--|---|--|
| <input type="checkbox"/> Male              | <input type="checkbox"/> White Skin            | <input checked="" type="checkbox"/> Black Hair | <input type="checkbox"/> White Hair | <input type="checkbox"/> 14-20 Yrs.            | <input type="checkbox"/> Under 5'             | <input type="checkbox"/> Under 100 Lbs.          |
| <input checked="" type="checkbox"/> Female | <input checked="" type="checkbox"/> Black Skin | <input checked="" type="checkbox"/> Brown Hair | <input type="checkbox"/> Balding    | <input checked="" type="checkbox"/> 21-35 Yrs. | <input checked="" type="checkbox"/> 5'0"-5'3" | <input checked="" type="checkbox"/> 100-130 Lbs. |
| <input type="checkbox"/> Glasses           | <input type="checkbox"/> Yellow Skin           | <input type="checkbox"/> Blood Hair            |                                     | <input type="checkbox"/> 36-50 Yrs.            | <input type="checkbox"/> 5'4"-5'8"            | <input type="checkbox"/> 131-160 Lbs.            |
|  | <input type="checkbox"/> Brown                 | <input type="checkbox"/> Gray Hair             | <input type="checkbox"/> Mustache   | <input type="checkbox"/> 51-65 Yrs.            | <input type="checkbox"/> 5'9"-6'0"            | <input type="checkbox"/> 161-200 Lbs.            |
|  | <input type="checkbox"/> Red Skin              | <input type="checkbox"/> Red Hair              | <input type="checkbox"/> Beard      | <input type="checkbox"/> Over 65 Yrs.          | <input type="checkbox"/> Over 6'              | <input type="checkbox"/> Over 200 Lbs.           |
- Other identifying features: 35 Yrs. 5' 100 Lbs.

USE IN NYC CIVIL CT. ☐

The language required by NYCRR 2900.2(a), (f) & (h) was set forth on the face of said summons(es).

MILITARY SERVICE ☒

I asked the person spoken to whether defendant was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. Defendant wore ordinary civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations above narrated.

Upon information and belief I aver that the defendant is not in the military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

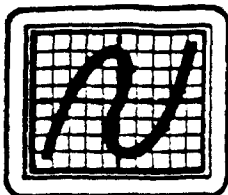
Sworn to before me on

February 3, 1989  
CHRISTOPHER J. ESWORTHY  
Notary Public, State of New York  
No. 4940375  
Residing in Broome County  
My Commission Expires Aug. 8, 1990

Adolph E. Chakanovsky, Deputy

LICENSE NO.

INSTRUCTIONS: Check appropriate boxes and fill in blanks. Delete inappropriate italicized language and fill



# NORTHEAST BROADCAST LAB, INC.

## MAIN OFFICE

10373 Saratoga Road, P.O. Box 1179  
South Glens Falls, NY 12803  
Tel 518-793-2181 Fax 518-793-7423

January 31, 1990

Mr. Richard Fahrenz  
Waite, Fahrenz, Hawkes & Cawley  
208 Press Building  
19 Chenango St.  
Binghamton, N.Y. 13901

Dear Mr. Fahrenz:

After our telephone conversation a few days ago, I did contact Chris Esworthy and went with him to WUCI. I took an inventory of the equipment there, and identified the items that were actually on the Federal lien as well as items that were listed on the lien but were missing, and items that were present but not listed.

The following items are listed on that lien but were missing:

- 1 Belar FMM-2 Monitor
- 1 Belar FMS-s Stereo Monitor
- 1 Belar RFA-1 RF amplifier
- 1 LPB S-13C console
- 1 Ramsa WR-8118 console
- 1 Atari MX5050BQII tape recorder (The correct spelling is Otari but all paper work indicates "Atari".)

Former paperwork indicated that the Belar equipment and the LPB console was purchased from us. However, we never completed those orders and did not ship that equipment because of the credit problems.

The following equipment was being used at the station, but is not listed on the Federal lien:

- 1 Collins Mark 8 console (Used in control room)
- 1 CCA FM and Stereo modulation monitor
- 1 Gates/Harris GTM-88F Frequency monitor
- 1 McMartin TBM-2500 RF amplifier
- 1 Equipment rack cabinet
- 2 Technics SP-15 turntables

(The above are all in the control room)

- 1 Gates/Harris Gatesway II audio console
- 2 QRK Turntables
- 1 Reel to Reel tape recorder

2 Monitor speakers

(All of this is in the production studio)

At the transmitter, there is an equipment rack, the Cable connectors, and a taper reducer that are not listed in the lien.

In addition, there appears to be some office furniture as well as a record and tape library that might be considered for a Sherriff's sale.

Looking around the station, I have serious doubts that the station is in compliance with several of the FCC requirements.


I have ordered copies of their FCC files, and may consider starting a FCC action as well.

In the meantime, I would like to explore the possibility of executing a sale on anything that is not covered by the Federal lien.

Please provide any paperwork necessary to Chris Esworthy for that purpose.

If you should need any additional information, or have any questions regarding this equipment, please let me know.

Sincerely yours,



William Bingham

CC. Chris Esworthy  
Al Vigorito

# *Smyk, Smyk & Fahrnez*

ATTORNEYS AT LAW

11115 COURT STREET

*Binghamton, New York 13901*

RICHARD E. FAHREZ  
STEPHEN D. SMYK  
THEODORE J. MLYNARSKI, JR.  
BRUCE C. SMYK  
JEFFREY J. HAWKES  
JOSEPH F. CAWLEY

(607) 723-8924  
FAX # (607) 723-6452

STUART M. WAITE, OF COUNSEL

May 8, 1990

Orange County Sheriff's Office  
P.O. Box 100  
Binghamton, NY 13902

Attention: Mr. James Hawkins

121 Northwest Broadway, 1st Fl. Bldg. v. Thru Transmission, Inc.  
PE# 80188

Dear Mr. Hawkins:

It is my pleasure to inform you that the papers for the  
release of the papers in advance, that I appreciate the delay  
between the time of submission of the papers and the time we were  
with your company's requests. We merely wish to insure that the  
papers have been signed and are returned to you.

5-17-90

Fahrez agreed to let Cawley

Due the Auction & pickup  
Merchandise.

Very truly yours,

RICHARD E. FAHREZ



Richard E. Fahrnez

REF 11

111 American Bureau of Collections, Inc.  
File # 111-100000000

5-21-90 Bill Bingham agreed also  
to let the company

3 men & truck 42.00

5-21-90  
10:10 PM  
29

AWYER CODE # 700515

RECEIPT # \_\_\_\_\_

MOUNT #

\$10.00 + 250.00 deposit

FILE #

PE 2688

Served Billi Anderson  
(Print name and last name of person)  
Street Address 56-58 Whitney Av  
City, Town or Village Brooklyn  
Date and Time Served 11-15-68  
Name of Deputy Who Effected Service Bill

Male ☒ Female ☐  
Color of Skin Blk  
Hair Color Blk  
Approx. Age 43  
Approx. Weight 185  
Approx. Height 5'10"

SUPREME COURT  
COUNTY OF BROOME

Index No. 88-1470

NORTHEAST BROADCAST LAB, INC.

Plaintiff

against

UHURU COMMUNICATIONS, INC.

Defendant

EXECUTION

The People of the State of New York

TO THE SHERIFF OF ANY COUNTY, GREETING:

WHEREAS, in an action in the Supreme court of New York  
county of Broome between  
Northeast Broadcast Lab, Inc.

as plaintiff and

Uhuru Communications, Inc.

as defendant

who are all the parties named in said action, a judgment was entered on August 19

19 87

in favor of Northeast Broadcast Lab, Inc.

judgment creditor

and against Uhuru Communications, Inc.

judgment debtor

whose last known address is 164 Court Street, Binghamton, NY 13901

in the amount of \$ 8,218.74 including costs, of which \$ 8,218.74

together

with interest thereon from August 19, 1987 remains due and unpaid;

WHEREAS, a transcript of the judgment was filed on

19 with

the Clerk of the County of

, in which county the judgment was entered; and

WHEREAS, a transcript of the judgment was docketed in the office of the Clerk of your county on  
19

NOW, THEREFORE, WE COMMAND YOU to satisfy the said judgment out of the real and personal  
property of the above named judgment debtor and the debts due to him; and that only the property in which  
said judgment debtor, who is not deceased, has an interest or the debts owed to him shall be levied upon or sold  
hereunder; AND TO RETURN this execution to the clerk of the above captioned court within sixty days after  
issuance unless service of this execution is made within that time or within extensions of that time made in  
writing by the attorney(s) for the judgment creditor .

Dated: June 1, 1990

SEE ATTACHED LIST

  
Richard E. Fahrenz  
The name signed must be printed beneath.

MAKE PAYMENT ONLY TO  
BROOME COUNTY SHERIFF  
80 COLLIER ST.  
BINGHAMTON, N. Y. 13901

INTEREST 9% ANNUALLY COMPUTED  
FROM JUDGMENT DATE UNTIL  
PAID IN FULL. ALSO 5% POUNDAGE  
OF AMOUNT COLLECTED.

Total Due: 10,438.79

Attorney(s) for Judgment Creditor  
Office and Post Office Address

SMYK, SMYK & FALCETTI  
111-115 Court Street  
Binghamton, NY 13901

A notice to judgment debtor in the form presented by CPLR §5222(c) — HAS NOT — been served on judgment debtor within a year.

EXECUTION ATTACHMENT

(con't)

SPECIFICALLY LEVY ON THE  
FOLLOWING ITEMS

- 1) 1 Collins Mark B console (Used in control room)
- 2) CCA FM and Stereo modulation monitor
- 3) 1 Gate/Harris GTM-88F Frequency monitor
- 4) 1 McMartin TBM-2500 RF amplifier
- 5) 1 Equipment rack cabinet
- 6) 2 Technics SP-15 turntables
- 7) 1 Gates/Harris Gateway II audio console
- 8) QRK Turntables
- 9) 1 Reel to Reel tape recorder
- 10) 2 Monitor speakers
- 11) Equipment rack
- 12) Cable connectors
- 13) Taper reducer
- 14) Record & Tape library
- 15) Office furniture

100-1 4 6 22

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 01-11-2010 BY 60322



SUPREME COURT  
COUNTY OF BROOME

NORTHEAST BROADCAST LAB, INC.

Plaintiff(s)

against

UHURU COMMUNICATIONS, INC.

Defendant(s)

Index No.

AFFIDAVIT OF  
SERVICE OF ~~SUMMONS~~  
~~AND COMPLAINT~~

EXECUTION

STATE OF NEW YORK, COUNTY OF BROOME

ss.:

Ronald J. Bill being duly sworn, deposes and says: that deponent is not a party to this action, is over 18 years of age and resides at Glen Aubrey, N.Y.  
That on June 1, 1990 at 11:15 AM, at 56-58 Whitney Avenue, Binghamton, NY  
deponent served the within ~~summons~~ ~~Summons~~ ~~and Complaint~~ on UHURU COMMUNICATIONS, INC. defendant therein named.

Execution

INDIVIDUAL by delivering a true copy of each to said defendants personally; deponent knew the person so served to be the person described as said  
1. ☐ defendant therein.

CORPORATION a corporation, by delivering thereat a true copy of each to Billi Anderson  
2. ☒ personally, deponent knew said corporation so served to be the corporation described in said summons as said defendant and knew said individual to be thereof

SUITABLE AGE PERSON by delivering thereat a true copy of each to a person of suitable  
3. ☐ age and discretion. Said premises is defendant's—actual place of business—dwelling house—usual place of abode—within the state.

AFFIXING TO DOOR, ETC. by affixing a true copy of each to the door of said premises, which is defendant's—actual place of business—dwelling house—usual  
4. ☐ place of abode—within the state. Deponent was unable, with due diligence to find defendant or a person of suitable age and discretion, thereat, having called there

MAILING USE WITH 3 or 4 Deponent also enclosed a copy of same in a postpaid sealed wrapper properly addressed to defendant at defendant's last known residence, at and deposited said wrapper in—a post office—official depository under exclusive care and custody of the United States Postal Service within New York State.  
☐

DESCRIPTION Deponent describes the individual served as follows:  
USE WITH 1. ☐ Male ☐ White Skin ☒ Black Hair ☐ White Hair ☐ 14-20 Yrs. ☐ Under 5' ☐ Under 100 Lbs.  
2. ☒ Female ☐ Black Skin ☐ Brown Hair ☐ Balding ☐ 21-35 Yrs. ☐ 5'0"-5'3" ☐ 100-130 Lbs.  
☐ Yellow Skin ☐ Blond Hair ☒ 36-50 Yrs. ☐ 5'4"-5'8" ☐ 131-160 Lbs.  
☐ Glasses ☒ Brown ☐ Gray Hair ☐ Mustache ☐ 51-65 Yrs. ☒ 5'9"-6'0" ☒ 161-200 Lbs.  
☐ Red Skin ☐ Red Hair ☐ Beard ☐ Over 65 Yrs. ☐ Over 6' ☐ Over 200 Lbs.  
Other identifying features:

USE IN  
NYC CIVIL CT.

☐

The language required by NYCRR 2900.2(c), (f) & (h) was set forth on the face of said summons(es).

MILITARY  
SERVICE

☒

I asked the person spoken to whether defendant was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. Defendant wore ordinary civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations above narrated.

Upon information and belief I aver that the defendant is not in the military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

Sworn to before me on June 1, 1990

DAWN M. PFLANZ  
Notary Public, State of New York  
No. 4819075  
Residing in Broome County  
My Commission Expires March 30, 1992

*Ronald J. Bill*  
First name beneath signature  
Ronald J. Bill, Deputy

LICENSE NO.

INSTRUCTIONS: Check appropriate boxes and fill in blanks. Delete inappropriate italicized language and military service allegation if not applicable.

STAGED

- 304  
B
- 2 Cartridge machines in case 2 Reel-to-reel & 1 player
  - 2 MULTI STEREO TRANSMITTER Beige right & left channels.
  - 1 EBS DECODER
  - 1 OPTIMED - FM DEBAN model SICOA Beige.
  - 2 MICROPHONES 635A ① RADIO SHACK boom mic stand with STANLEY GOVA CARRYING ②
  - 2 Arms for turntables studio table arms
  - 1 tuner in walnut cabinet.

Room A series 3000 Cartridge machine with REWEL

2 PICKUPS (Alpha CCA) in cabinet stay.  
1 MICROPHONE

Ashimba Jang

UHURU COMMUNICATIONS, INC.

ATTACHMENT

- ✓ 1. 1 Collins Mark 8 console
2. 1 CCA FM and Stereo modulation monitor *HOLD WHEN SUNG BING*
3. 1 Gate/Harris GTM-88F Frequency monitor *HOLD WHEN SUNG BING*
4. 1 McMartin TBM-2500 RF amplifier *HOLD WHEN SUNG BING*
- ✓ 5. 1 Equipment rack cabinet
- ✓ 6. 2 Technics SP-15 turntables
- ✓ 7. 1 Gates/Harris Gateway II audio console
- ✓ 8. 2 QRK Turntables
9. 1 Reel to Reel tape recorder *Given back to TOM SIGLEN*
- ✓ 10. 2 Monitor speakers
- ✓ 11. Record and tape library
- ✓ 12. 1 Shure mixer
- ✓ 13. Sanyo double cassette deck
- ✓ 14. Realistic weather radio ACERT
- ✓ 15. Realistic Stereo Music System
- ✓ 16. Electro Band AM/FM Stereo Music Center
- ✓ 17. 3 ITT Phones, Beige with Speaker
- ✓ 18. 2 Chairs
- ✓ 19. 1 - 4 Drawer File Cabinet
- ✓ 20. 2 - 5 Drawer File Cabinets
- ✓ 21. 1 Desk
- ✓ 22. 1 Chalk Board

DID NOT LEAVE ON THE FOLLOWING

- |  |                       |   |
|--|-----------------------|---|
| (2) CARTRIDGE machines in case                       | 1 Recorder & 1 Player | (1) microphone.                                 |
| (2) MARTI STL-10 TRANSMITTER (Beige)                 | Right & Left channels | (2) STEREO TABLE REC-<br>with STEREO CARTRIDGES |
| (1) EBS DEWORE                                       |                       | (1) TUNER in rack<br>cabinet                    |
| (1) OPTIMO - FM ORGAN model BICO A (Beige)           |                       | (1) Series 300 CARTAGE<br>MACHINE with REC-10   |
| (2) MICROPHONES 635A (1) RADIO SHACK 2nd micro stand |                       | (2) Preamps                                     |

EXECUTION ATTACHMENT

(con't)

SPECIFICALLY LEVY ON THE  
FOLLOWING ITEMS:

- 1) 1 Collins Mark 8 console (Used in control room) Room B & power supply
- 2) CCA FM and Stereo modulation monitor Room B Blue CCA FM & Blue CCA Stereo
- 3) 1 Gate/Harris GTM-88F Frequency monitor Room B Greenish Gray
- 4) 1 McMartin TBM-2500 RF amplifier Room B Blue
- 5) 1 Equipment rack cabinet Room B Gray
- 6) 2 Technics SP-15 turntables Room B Left Burn TUNE ACMS
- 7) 1 Gates/Harris Gateway II audio console Room A ① 2 1 power supply
- 8) QRK Turntables ② Room ① 17 turntable arms Broken needles are missing on B.M.
- 9) 1 Reel to Reel tape recorder ① Room ① 14-934 Tom Signa
- 10) 2 Monitor speakers ② Room ②
- 11) Equipment rack transmitter
- 12) Cable connectors
- 13) Taper reducer
- 14) Record & Tape library 2 Silver Buses Room B 45 records, Approx 3.00 Records
- 15) Office furniture
- 16) Shure<sup>2</sup> mixer Room ① 1
- 17) Sanyo Double cassette deck Room ③
- 18) Realistic weather radio ACCT
- 19) Realistic Stereo music system Clarinet 15
- 20) Electro Dune AM FM (6564 model) <sup>STEREO</sup> Stereo music center (extra cover is Bent)

OFFICE FURNITURE

- ① ITT Phone Berge with speaker outside B
- ① " " Room B
- ② Chairs - stationary Room B
- ① 4 DRAW gray file cabinet Room B

OFFICE

- ① ITT Phone Berge with speaker
- ② DESK
- ③ 2 5 DRAWER FILE CABINET
- ④ CHALK BOARD

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF BROOME

-----  
NORTHEAST BROADCAST LAB, INC.

Plaintiffs,

AFFIDAVIT OF POSTING NOTICE  
OF SALE OF RADIO BROADCASTING  
EQUIPMENT

vs.

UHURU COMMUNICATIONS, INC.

-----  
Defendant.

STATE OF NEW YORK :  
                              : SS  
COUNTY OF BROOME :

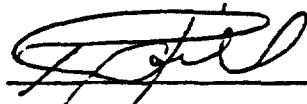
Ronald J. Bill,       being duly sworn, deposes and says:

That he resides at     Glen Aubrey, NY

and is over the age of eighteen years; that he conspicuously fastened up  
a printed notice of sale, a copy of which is affixed hereto, at least

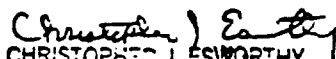
7           days before the sale mentioned in said notice, to wit, on the  
13th day of June   1990 in     3   public places in the   following locations:

1. Town of Chenango Town Hall, Front Street, Binghamton, NY
2. Giant Market, Giant Plaza, Front Street, Binghamton, NY
3. Carl's Drug Store, Front Street, Binghamton, NY

  
\_\_\_\_\_  
Ronald J. Bill, Deputy

Sworn to before me this

13<sup>th</sup> day of June , 1990

  
CHRISTOPHER J. ESWORTHY  
Notary Public, State of New York  
No. 4940355  
Residing in Broome County  
My Commission Expires Aug. 15, 1992

# Sheriff's Sale

County of BROOME ss.

By Writ of an Execution issued out of the SUPREME Court  
of the State of New York, to me directed and delivered, against the goods and chattels, lands and  
tenements of UHURU COMMUNICATIONS, INC.

I have seized and taken all the right, title and interest of said *defendant* in and to the following  
described property, to wit:

SEE ATTACHED LIST

SEIZED JUNE 1, 1990

WHICH PROPERTY I SHALL OFFER FOR SALE, as the law directs, on the 21st  
day of June, 1990, at 7:00 o'clock in the evening ~~noon~~ at the  
Box 628, Hill Street, Chenango Bridge, (Off Kattelville Rd.) in the Town  
of Chenango, County of Broome, N. Y.

Dated this 13th day of June, 1990

ANTHONY C. RUFFO, Broome County Sheriff.

By Vincent R. Vasisko  
Vincent R. Vasisko, Undersheriff

UHURU COMMUNICATIONS, INC.

ATTACHMENT

1. 1 Collins Mark 8 console
2. 1 CCA FM and Stereo modulation monitor
3. 1 Gate/Harris GTM-88F Frequency monitor
4. 1 McMartin TBM-2500 RF amplifier
5. 1 Equipment rack cabinet
6. 2 Technics SP-15 turntables
7. 1 Gates/Harris Gateway II audio console
8. 2 QRK Turntables
9. 1 Reel to Reel tape recorder
10. 2 Monitor speakers
11. Record and tape library
12. 1 Shure mixer
13. Sanyo double cassette deck
14. Realistic weather radio ACERT
15. Realistic Stereo Music System
16. Electro Band AM/FM Stereo Music Center
17. 3 ITT Phones, Beige with Speaker
18. 2 Chairs
19. 1 - 4 Drawer File Cabinet
20. 2 - 5 Drawer File Cabinets
21. 1 Desk
22. 1 Chalk Board

RE: UHURU COMMUNICATIONS, INC. (WUCI)

SEND NOTICE OF SALE TO:

Uhuru Communications, Inc.  
56-58 Whitney Avenue  
Binghamton, NY 13901

*reg. • Certified Mail*

Mr. Richard Fahrenz  
Smyk, Smyk & Fahrenz  
111-115 Court Street  
Binghamton, NY 13901

Martin Schulman  
MBA/ARTS Program  
SUNY-BINGHAMTON  
Binghamton, NY 13901

Tom Harvey, Jr.  
31 Winding Way  
Binghamton, NY 13905

Mr. Robert Connelly  
205 State Street  
Binghamton, NY 13901

NOTICES MAILED 6/14/90

*also gave copy to Peter Sypin  
@ office*





Broome County

MESSAGE MEMO

TO BOB CONNELLY DATE 6/14/90

TIME \_\_\_\_\_

CALLER \_\_\_\_\_

PHONE \_\_\_\_\_

AREA CODE NUMBER EXT.

TELEPHONED		PLEASE CALL	
RETURNED YOUR CALL		WILL CALL BACK	
CAME TO SEE YOU		WILL RETURN	

MEMO PLEASE POST SALE NOTICE WHERE  
PROPERTY IS BEING SOLD.

BROOME COUNTY SHERIFF'S OFFICE

P 943 373 953

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED  
NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to	
Uhuru Communications, Inc. WUCI	
556-58 Whitney Avenue	
Binghamton, NY 13901	
P.O. State and ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date	
6/14/90	

PS Form 3800, June 1985